UNITED
NATIONS

A

General Assembly

Distr.
LIMITED

A/C.3/52/L.69
20 November 1997

ORIGINAL: ENGLISH

Fifty-second session
THIRD COMMITTEE
Agenda item 112 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Albania, Andorra, Australia, Bosnia and Herzegovina, Bulgaria, Chile, Costa Rica, Croatia, Czech Republic, Finland, France, Germany, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Monaco, Morocco, Pakistan, Portugal, San Marino, Slovenia, Spain, Sweden, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Bosnia and Herzegovina, Croatia and Yugoslavia

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights,[2] and all other human rights instruments and instruments of international humanitarian law, including the Geneva Conventions of 12 August 1949[3] for the protection of victims of war and the Additional Protocols thereto, of 1977,[4] as well as the principles and commitments undertaken by participating States of the Organization for Security and Cooperation in Europe,

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI).

[3] United Nations, Treaty Series, vol. 75, Nos. 970-973.

[4] Ibid., vol. 1125, Nos. 17512 and 17513.

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their obligations under the human rights instruments to which they are party, and reaffirming also the obligation of all to respect international humanitarian law,

Reaffirming the territorial integrity of all States in the region, within their internationally recognized borders,

Welcoming the entry into force and implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto, initialled at Dayton, Ohio, on 21 November 1995, and signed by Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, representing also the Bosnian Serb party, in Paris on 14 December 1995 (collectively, the "Peace Agreement"), which, inter alia, committed the parties in Bosnia and Herzegovina to respect fully human rights,

Gravely concerned nonetheless at the continuing evidence of violations of human rights and fundamental freedoms taking place to varying degrees in Bosnia and Herzegovina, Croatia and Yugoslavia,

Expressing its concern for fostering democracy and the rule of law in the area, noting the recommendations made by the personal representative of the Chairman-in-Office of the Organization for Security and Cooperation in Europe on the situation in Yugoslavia and expressing its disappointment that those recommendations have not been followed,

Calling attention to the reports and recommendations of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, including her most recent report of 17 October 1997[5] and especially the recommendations set forth therein,

Recalling all relevant General Assembly resolutions, especially its resolution 51/116 of 12 December 1996, Commission on Human Rights resolution 1997/57 of 15 April 1997, as well as all relevant resolutions and presidential statements of the Security Council, especially resolution 1009 (1995) of 10 August 1995 and the statement of 20 October 1997 by the President of the Security Council,[6]

1. Calls for the full and consistent implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto, (the "Peace Agreement") and the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (the "Basic Agreement") by all parties to them;

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[5] A/52/490, annex.

[6] S/PRST/1997/48.

2. Expresses its serious concern about continuing human rights violations within Bosnia and Herzegovina and the delays in fully implementing the human rights provisions of the Peace Agreement;

3. Condemns in the strongest terms the continued forcible expulsion of individuals from their homes in Bosnia and Herzegovina, and the practice of destroying the homes of those forcibly expelled, and calls for the immediate arrest and punishment of individuals engaged in these actions;

4. Also condemns the continuing restrictions on freedom of movement, as noted by the Special Rapporteur in her report,[5] between the Republika Srpska and the Federation of Bosnia and Herzegovina and urges all parties to guarantee the freedom of movement of returnees and residents of Bosnia and Herzegovina;

5. Urges all parties in Bosnia and Herzegovina immediately to create conditions conducive to the safe and voluntary return of refugees and internally displaced persons to their pre-war homes, and calls upon all entities to repeal property laws which prevent pre-war residents from returning to their homes in accordance with Annex 7 of the Peace Agreement and to ensure the passage of non-discriminatory legislation as soon as possible;

6. Encourages all parties in Bosnia and Herzegovina to cooperate with and support the work of the property commission to resolve outstanding property claims;

7. Expresses concern for women and children, especially in Bosnia and Herzegovina, who were victims of rape used as a weapon of war, and calls for the perpetrators of rape to be brought to justice while ensuring that victims and witnesses receive adequate assistance and protection;

8. Urges all States and relevant organizations to continue to give serious consideration to the recommendations in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the former Yugoslavia, in particular the recommendation concerning provision for the continuation of necessary medical and psychological care to victims of rape within the framework of programmes to rehabilitate women and children traumatized by war, as well as the provision of protection, counselling and support to victims and witnesses;

9. Recognizes the extraordinary suffering of the victims of rape and sexual violence and the necessity for an appropriate response to provide assistance to those victims, and expresses its concern, in particular, for the welfare of those victims who are currently among the internally displaced or otherwise affected by the war and who have experienced severe trauma and require psychological and other assistance;

10. Insists that all parties implement fully the commitments made in the Peace Agreement to protect human rights, and also insists that the parties act to promote and protect democratic institutions of government at all levels in their respective countries, to ensure freedom of expression and of the media, to allow and encourage freedom of association, including with respect to political parties, and to ensure freedom of movement, and that the parties in Bosnia and

Herzegovina comply with the human rights provisions of their national Constitution;

11. Calls upon all parties and States in the region to ensure that the promotion of human rights, including the fulfilment of their respective human rights obligations by the parties to the Peace Agreement, as well as the strengthening of national institutions, will be a central element in the new civilian structure implementing the Peace Agreement, as promised at the peace implementation meetings in London on 6 December 1996, and in Sintra, Portugal, on 30 May 1997;

12. Calls upon the Government of Yugoslavia to undertake substantially greater efforts to institute democratic norms, especially in regard to the promotion and protection of free and independent media, and full respect for human rights and fundamental freedoms;

13. Also calls upon the Government of Yugoslavia to ensure the speedy and consistent investigation of acts of discrimination and violence against refugees, and to ensure the arrest and punishment of those responsible for those acts;

14. Further calls upon the Government of Yugoslavia to allow for the return of Yugoslav citizens and refugees currently outside its territory;

15. Urgently demands that the authorities of Yugoslavia take immediate action to put an end to the repression of, and prevent violence against, non-Serb populations in Kosovo, including acts of harassment, beatings, torture, warrantless searches, arbitrary detention and unfair trials, and also to respect the rights of persons belonging to minority groups in the Sandjak and Vojvodina and of persons belonging to the Bulgarian minority;

16. Calls upon the Government of Yugoslavia to respect the democratic process and to act immediately to allow, in conformity with the rule of law and international obligations, freedom of expression and assembly and full and free participation by all residents in Kosovo in the political, economic, social and cultural life of the region, particularly in the areas of education and health care, and to ensure that all the residents of the region are guaranteed equal treatment and protection regardless of ethnic affiliation;

17. Strongly urges the Government of Yugoslavia to revoke all discriminatory legislation and to apply all other legislation without discrimination and to take urgent action to prevent arbitrary evictions and dismissals and discrimination against any ethnic or national, religious or linguistic group;

18. Calls upon the Government of Croatia to undertake greater efforts to strengther its adherence to democratic norms, especially in regard to the promotion and protection of free and independent media; and to cooperate fully with the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium to assure that the reintegration of Eastern Slavonia occurs peacefully and with respect for the human rights of all residents and returning displaced persons and refugees, including those belonging to

minorities, and their right to remain, leave or return in safety and dignity; and to enable the return of refugees, as agreed by the Government of Croatia on 5 August 1997;

19. Strongly condemns instances of harassment of displaced Serbs and reports of collusion or active participation in such acts by Croatian members of the Transitional Police Force of the Region of Eastern Slavonia, Baranja and Western Sirmium, and calls upon the Government of Croatia to strengthen and to take continuing measures to end all forms of discrimination by Croatian authorities in the areas of employment, promotion, education, pensions and health care, among others;

20. Welcomes the recent establishment by the Government of Croatia of the national programme for the re-establishment of trust and calls for its full and prompt implementation;

21. Insists that all authorities in Bosnia and Herzegovina cooperate fully with the Commission on Human Rights for Bosnia and Herzegovina, created under Annex 6 of the Peace Agreement, in particular by providing information and resource reports requested by the Human Rights Ombudsman and by participating in hearings before the Human Rights Chamber, and demands that the Republika Srpska cease its pattern of non-cooperation with the Commission;

22. Calls upon the Commission on Human Rights for Bosnia and Herzegovina to intensify its activities concerning alleged or apparent violations of human rights, or alleged or apparent discrimination of any kind;

23. Urges the parties to implement results of recent municipal elections, through the Constitution, without delay of councils in all municipalities of Bosnia and Herzegovina;

24. Calls for the continuing implementation by Croatia of a new general amnesty law, enacted on 20 September 1996 and intended in part to promote confidence on the part of the local Serb population;

25. Welcomes the signing of cross-border agreements between Yugoslavia and Croatia on 14 September 1997 and the easing of border crossing between Bosnia and Herzegovina and Croatia;

26. Calls upon the Government of Yugoslavia to undertake a consistent border regime with all neighbouring countries;

27. Strongly urges the Government of Croatia to allow the expeditious voluntary return of all refugees, including those from Yugoslavia, and of displaced persons, and to undertake all appropriate measures to secure their safety and human rights, to resolve in the framework of the rule of law, in conformity with international standards, the issue of property rights, to make a sustained effort to ensure the provision of equal access to protection and to social and housing reconstruction assistance regardless of ethnicity, and to investigate and arrest those responsible for acts of violence and intimidation aimed at driving people away;

28. Urgently calls upon all States and all parties to the Peace Agreement to meet their obligations to cooperate fully with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, as required by Security Council resolution 827 (1993) of 25 May 1993, including with respect to surrendering persons sought by the International Tribunal, and urges all States and the Secretary-General to support the Tribunal to the fullest extent possible, in particular by helping to ensure that persons indicted by the Tribunal stand trial before it, and urges all States to consider providing the Tribunal with legal and technical expertise not available to the organization, as provided for in General Assembly resolution 51/243 of 15 September 1997;

29. Strongly condemns the continuing refusal of the authorities of the Republika Srpska and the Government of Yugoslavia to arrest and surrender indicted war criminals known to be present in their territories, as they have agreed to do;

30. Welcomes with satisfaction the measures recently taken by the Government of Croatia to facilitate the voluntary return of ten persons indicted by the International Tribunal, in accord with the Peace Agreement and welcomes in this regard the increased cooperation with the Tribunal by Croatia and the central authorities of Bosnia and Herzegovina which have enacted implementing legislation and have transferred indictees to the Tribunal;

31. Demands that the Government of Bosnia and Herzegovina, in particular the authorities of the Republika Srpska, and the Government of Yugoslavia ensure full and free access, in accordance with applicable international law, to their territories to all institutions concerned with the implementation of the present resolution, including non-governmental organizations;

32. Welcomes the interim reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, and commends the Special Rapporteur and the United Nations Human Rights Field Operation in the Former Yugoslavia for their continuing efforts;

33. Urges all parties to implement fully the recommendations of the Special Rapporteur of the Commission on Human Rights;

34. Calls upon the authorities of the States and entities within the mandate of the Special Rapporteur to cooperate with her and to provide her on a regular basis with information about the actions they are undertaking to implement her recommendations;

35. Welcomes technical cooperation and assistance programmes planned by the Office of the United Nations High Commissioner for Human Rights in consultation with the Government of Croatia and calls upon the Office of the United Nations High Commissioner for Human Rights to initiate, at the earliest possible opportunity, projects emphasizing human rights training for professionals involved in law enforcement and the rule of law, as well as human rights education;

36. Reaffirms, as recommended previously by the Special Rapporteur, that major reconstruction aid must be made conditional on demonstrated respect for human rights, and emphasizes in that context the necessity of cooperation with the International Tribunal, and welcomes in this regard the conclusions of the meeting of the Steering Board of the Peace Implementation Council and of the Presidency of Bosnia and Herzegovina held in Paris on 14 November 1996 and in Sintra, Portugal, on 30 May 1997;

37. Welcomes the commitments of the international community for post-war reconstruction and development assistance, and encourages the expansion of this assistance, while noting that such assistance should be conditioned on full compliance by the parties with the agreements that have been made;

38. Welcomes the efforts of the Organization for Security and Cooperation in Europe, the Council of Europe, the Organization of the Islamic Conference, the European Community Monitoring Mission and the United Nations High Commissioner for Human Rights in monitoring and strengthening respect for human rights and fundamental freedoms in Bosnia and Herzegovina and the region and welcomes Croatia's adherence to and firm and formal commitment to abide by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its additional protocols, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Charter of Local Self-Government, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages;

39. Calls for an immediate end to illegal and/or hidden detention by all parties, and requests that the Special Rapporteur investigate allegations of hidden detainees;

40. Calls upon the parties to the Peace Agreement to take immediate steps to determine the identity, the whereabouts and the fate of missing persons, in particular near Srebrenica, Žepa, Prijedor, Sanski Most and Vukovar, including through close cooperation with the International Commission on Missing Persons in the Former Yugoslavia, other international humanitarian organizations and independent experts, the Special Rapporteur, the Working Group on the process for tracing persons unaccounted for, chaired by the International Committee of the Red Cross, and the Expert Group on Exhumation and Missing Persons, chaired by the High Representative, and stresses the importance of coordinating work in this area;

41. Encourages all Governments to respond favourably to the appeals for voluntary contributions for the benefit of the Commission on Human Rights for Bosnia and Herzegovina, the Commission for Real Property Claims of Refugees and Displaced Persons for Bosnia and Herzegovina, the International Commission on Missing Persons in the Former Yugoslavia, the Office of the United Nations High Commissioner for Human Rights and other institutions of reconciliation, democracy and justice in the region;

42. Encourages, inter alia, the Organization for Security and Cooperation in Europe, the Council of Europe, the Organization of the Islamic Conference, the European Community Monitoring Mission, the United Nations High Commissioner for Human Rights and other relevant international organizations to coordinate

closely their efforts in the field of human rights, with a view to contributing to the implementation of the present resolution;

43. Decides to continue its examination of this question at its fifty-third session under the item entitled "Human rights questions."